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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

SAUL BALLESTEROS,

Defendant and Appellant.

F072477

(Fresno Super. Ct. No. F15903191)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Timothy A. Kams, Judge.

Rudy Kraft, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Gomes, Acting P.J., Detjen, J., and Poochigian, J.

Appointed counsel for defendant Saul Ballesteros asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Counsel filed an opening brief that sets forth the facts of the case. Defendant was advised of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. He responded with a letter, contending his mental health problem prevented him from understanding the plea deal he accepted. Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On May 22, 2015, defendant was charged with resisting arrest (Pen. Code, § 69).¹ The information also alleged defendant had suffered a prior felony conviction within the meaning of the Three Strikes law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) and had served two prior prison terms (§ 667.5, subd. (b)).

On June 1, 2015, defendant pled no contest to the charge and admitted the strike prior. According to the agreement, the prison priors would be dismissed and defendant would receive a 16-month sentence, doubled to 32 months.

On July 13, 2015, defense counsel declared a doubt as to defendant's competency, and the trial court suspended criminal proceedings and ordered a competency evaluation.

On August 10, 2015, the parties submitted the issue of competency on Dr. Pointkowski's section 1368 report that found defendant to be competent. Based on the report, the court found defendant competent and reinstated criminal proceedings. The trial court sentenced defendant to the agreed 32 months in prison.

On October 7, 2015, defendant filed a notice of appeal.

¹ All statutory references are to the Penal Code.

DISCUSSION

The record supports the conclusion that defendant understood the nature of the rights he was waiving and the plea he was accepting. No evidence suggests that he was not competent at the time of the plea. But at the next hearing, defense counsel informed the court that defendant thought he was not always receiving his medication in jail. He also said he was hearing voices and wanted to go to Atascadero to see someone about his issues. Counsel declared a doubt regarding defendant's competency, and the court ordered an evaluation by Dr. Pointkowski.

Dr. Pointkowski's diagnostic impressions were that defendant used drugs, suffered from a provisional antisocial personality disorder, and was a malingerer. Regarding defendant's competency, Dr. Pointkowski found that "defendant attempted to portray himself as possessing negligible knowledge about competency-related issues" and "feigned psychotic symptoms and other psychiatric symptoms/cognitive impairment." Dr. Pointkowski concluded that in all likelihood defendant was competent to stand trial.

The parties submitted on the report, and the trial court found defendant competent based on the report. Defense counsel told the court that defendant understood the proceedings and was prepared to be sentenced.

Having reviewed the record, we see no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.